

No. 1513, dated 11th June, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 6151-Lab-73/22823.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and management of M/s Haryana Steel Tubes, Mathura Road, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 208 of 1971

between

SHRI JANGLI AND THE MANAGEMENT OF M/s HARYANA STEEL TUBES, MATHURA ROAD,
FARIDABAD

Present :—

Shri Chaman Lal, for the workman.

Nemo, for the management.

AWARD

The following dispute between the management of M/s Haryana Steel Tubes, Mathura Road, Faridabad and its workman Shri Jangli was referred for adjudication to this court by order No. ID/FD/617-C-71/31661-65, dated 26th October, 1971, of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Jangli was justified and in order? If not, to what relief is he entitled?

Usual notices were given to the parties and they put in their respective written statements. The management took the plea that this workman had himself abandoned service and as such was not entitled to any relief in the present proceedings. My learned predecessor framed the following two issues :—

- (1) Whether the workman left the service of the management of his own accord?
- (2) If issue No. 1 is not proved, whether the termination of services of Shri Jangli was justified and in order? If not; to what relief is he entitled?

The management did not adduce any evidence in spite of getting suitable adjournments for this purpose. Shri Jangli concerned workman has made his own statement besides examining Shri Chaman Lal Obroi, General Secretary, Faridabad Engineering Workers Union, Faridabad and his authorised representative. He has also brought on record his attendance card Exhibit W. 1.

I have heard the learned representative of the workman and given a careful consideration to the facts on record. There is no denying the fact that this workman was in the service of the present management and further that his services stood terminated with effect from 18th June, 1971. The plea raised by the management was that as a matter of fact he had himself abandoned service and, therefore, it was a case of loss of lien on the job held by him. The burden was on the management to establish this plea by bringing on record cogent and convincing evidence but no effort was made by the management to discharge this burden. In fact, the management has withdrawn itself from the proceedings without showing any reasonable ground. The relevant record pertaining to the workman, attendance register etc., has not been produced. According to the averment made in the written statement this workman had applied for leave from 8th May, 1971 to 9th June, 1971, which was duly sanctioned but he had not reported for duty after the expiry of the said leave nor given any explanation for his continued absence from duty till 30th June, 1971 when his name was struck off the rolls. This is belied by the facts on record. There is the sworn testimony of the workman and his authorised representative Shri Chaman Lal Obroi that the management had in fact removed him from service without any justification. The workman has stated that he had reported for duty on 10th June, 1971 after the expiry of his leave but he was actually taken back on duty on 16th June, 1971 and he had worked on the following day also, but thereafter the management had removed him from service without any notice or charge-sheet. This is proved from the attendance card Exhibit W. 1 produced by him. It cannot, therefore, be said that this workman had wilfully absented himself from duty after the expiry of his aforesaid leave duly sanctioned by the management. From his statement read with the deposition made by Shri Chaman Lal Obroi it is further proved that he had approached the management for reinstatement but without any success and then the demand notice in writing was given to which also the management did not pay any heed and hence present reference.

On the facts discussed above, it would be clear that this workman had not himself abandoned service as contended by the management and that the management has led no evidence what ever documentary or oral to show that the termination of his services was justified and in order. Both the issues are accordingly decided against the management and in favour of the workman. From the statement of the workman and his authorised representative Shri Chaman Lal Obroi, Union Leader, it is further clear that during this period of his forced employment the workman has not been gainfully employed any where in spite of his efforts.

In view of the above, the workman concerned Shri Jangli is entitled to reinstatement with continuity of his previous service and full back wages and the award is made accordingly. The workman is also entitled to Rs. 50 as costs of the present proceedings.

Dated the 6th June. 1973.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1510, dated 11th June, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour, and Employment, Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana
Rohtak.

No. 6092-4Lab-73/22825.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act. No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Micro Precision Industries, Gurgaon.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 32 of 1973

between

SHRI SOUKA MISTRI WORKMAN AND THE MANAGEMENT OF M/S MICRO PRECISION
INDUSTRIES, GURGAON

Present :—

Shri Sardha Nand for the workman.

Shri Karam Singh, for the management.

AWARD

Shri Souka concerned workman was in the service of M/s Micro Precision Industries, Gurgaon, as a Mistry from 1st April, 1971 to 16th January, 1973. His plea is that the management had wrongfully terminated his service and when his demand for reinstatement was not accepted he gave the demand notice whereupon the conciliation proceedings were initiated. The management was, however, not willing to take him back on duty.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes, Act, 1947, referred the following dispute for adjudication to this Tribunal,—*vide* order No. ID/GG/125-A-73/11665, dated 28th March, 1973 :—

Whether the termination of services of Shri Souka Mistri was justified and in order ? If not, to what relief is he entitled ?

Usual notices were given to the parties and they have put in their respective written statements. The contention raised on behalf of the management is that as a matter of fact this workman had submitted his resignation on 15th December, 1972, which is Exhibit M-1 on record and the same was accepted after he had worked for full one month more. It has further been urged that the dues of this workman were paid in full before the Authority under the Payment of Wages Act and no other amount is due to him.

Statements of Shri Karam Singh, Proprietor, and Shri Souka concerned workman and his authorised representative Shri Sardha Nand have been recorded. The resignation Exhibit M-1 has been admitted by the workman and also the payment of his dues before the Authority under the Payment of Wages Act.

In view of the above, no further proceedings are passed for in the case and on the facts admitted the workman concerned is not entitled to any other relief on account of his voluntary resignation. The award is made accordingly, but there shall be no order as to costs.

Dated the 31st May, 1973.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 569, dated 31st May, 1973/3rd June, 1973.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

Dated 31st May, 1973.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6093-4 Lab-73/22827.—In pursuance of the provisions of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Frick India Ltd., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA FARIDABAD

Reference No. 75 of 1971

between

THE WORKMEN AND THE MANAGEMENT OF M/S FRICK INDIA LTD., FARIDABAD.

Presents :—
Shri Darshan Singh with Shri Prem Chand, concerned workman.
Shri S.L. Gupta, for the management.

AWARD

The following disputes between the management of M/s Frick India Ltd., Faridabad and its workmen were referred for adjudication to this Tribunal vide order No. ID/FD/324A/20799, dated 8th July, 1971 of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

1. Whether gratuity scheme should be introduced in the factory? If so, with what details and from which date?
2. Whether termination of services of Sarvshri Prem Chand & Krishan Gopal was justified and in order? If not, to what relief are they entitled?

On receipt of the order of reference usual notices were given to the parties and they put in their respective written statements. The management contested the claim of the workmen for introduction of the gratuity scheme mainly on the ground of its financial incapacity to meet the extra burden as it was still in a state of infancy. It was further urged that the Provident Fund and Family Pension Schemes had already been introduced in the company which provided ample retirement benefits to the workmen.

As for the other demands covered by item No. 2 of the reference it was contended that Shri Prem Chand concerned workman had been guilty of disorderly behaviour and wilful disobedience to the lawful order of the superior for which he was charge sheeted and proper domestic enquiry was held against him after taking his explanation which was found to be not satisfactory. It was further urged that the Enquiry Officer had found him guilty of the charges levelled against him and taking into consideration the findings of the enquiry Officer he had to be dismissed from service with effect from 3rd April, 1970 and in the circumstances the impugned order of his dismissal was perfectly justified. A similar plea was taken against Shri Krishan Gopal concerned workman who was allegedly guilty of go slow and inciting other workers also to go slow. Still another allegation was made against him that he had not obeyed the orders of his superior to resume his work and not to incite the other workers to stop work. According to the management this workman was also charge-sheeted for the aforesaid acts of misconduct which were duly proved against him in the domestic enquiry and hence the order of his dismissal from service.

In their replications the workman concerned controverted the above allegation of the management. From the pleadings of the parties the issues that arose for determination in the case were precisely the same as per the terms of reference stated above.

The management has brought on record the enquiry proceedings and examined two witnesses, namely, Shri M.M. Vijen, Labour Officer M.W. 1 who had conducted the enquiry against Shri Krishan Gopal and Shri A.P. Sinha M.W. 2 who was the Enquiry Officer in the case of Shri Amar Nath. Both the Enquiry Officers have proved the relevant records of the enquiry including their enquiry reports. Some other documents including show cause notices, explanation of the workmen, their dismissal orders have also been tendered in evidence. Shri A.P. Sinha, Enquiry Officer was recalled by Shri Prem Chand as his own witness as W.W. 1. He has himself come into the witness box as W.W. 2 and made a detailed statement. The documentary evidence relied upon by him consists of certain correspondence exchanged between him and the Enquiry Officer Shri A.P. Sinha and the management Ex. W-1 to Ex. W-8.

The case has been fully argued on both sides and I have given a considered thought to the material on record. There is not much to discuss with regard to item No. 1 of the order of reference regarding the gratuity scheme sought to be introduced by the workman. The payment of gratuity Act has come into force with effect from September 16, 1972 and the management is bound to introduce the gratuity scheme in the factory in accordance with the provisions of the said Act. Nothing worth consideration has been urged on behalf of the management, contrary to the opposition of law as it now stands with regard to this matter. The issue is accordingly decided in favour of the workman and it is held that they are entitled to the benefit of gratuity scheme in accordance with the provisions of Payment of gratuity Act.

Issue No.—2As would be clear from the facts stated above the management had terminated the services of two of its workmen namely, Shri Prem Chand and Krishan Gopal. Shri Krishan Gopal has not come forward to pursue his claim for reinstatement, payment of back wages etc. The management has contended that he was guilty of serious misconduct on account of disorderly behaviour and insubordination to his superior for which necessary charge sheet was given to him and his explanation to the same having not been found to be satisfactory, enquiry was held against him by Shri N.M. Vijan, Labour Officer. The enquiry proceedings have been brought on record and the Enquiry Officer has come into the witness box. From his statement, it is clear beyond any shadow of doubt that he had held the enquiry properly after due notice to Shri Krishan Gopal who had fully participated in the enquiry, cross examined the witnesses and produced three witnesses in his defence, the enquiry officer held him guilty of the aforesaid charges of misconduct vide Ex. his report M.W.1/5 record. Shri Krishan Gopal has not come forward to make even his own statement on oath to refute the above case of the management. There is nothing on the record to indicate that the enquiry against him had not been properly held or any principle of natural justice had been violated by the Enquiry Officer. The charges levelled by the management against him being serious which were duly proved in a just and fair domestic enquiry. There is apparently no ground to interfere with the order of dismissal from service passed against him by the management after taking into consideration the findings of the Enquiry Officer.

The charge-sheet dated 27th November, 1969 given to Shri Prem Chand by the management Ex. M.W. 2/1 on record, reads as under :

"Today, i.e. 27th November, 1969 when you were painting a condenser along with another Painter, the undersigned asked you to paint another condenser and the other painter to continue the painting of the same condenser. You refused to obey the orders and misbehaved with the undersigned in an indecent manner.

Your above acts are highly subversive of discipline and constitute misconduct as per the Standing orders and you are hereby charged as under :

1. Wilful insubordination to lawful and reasonable orders of your superior.
2. Disorderly and indecent behaviour during working hours inside the establishment.

You are hereby required to submit your written explanation within 24 hours of the receipt of this letter as to why suitable disciplinary action should not be taken against you. If no explanation is received within the time stipulated it will be presumed that you have admitted the charges and have no defence to offer and necessary action shall be taken without further reference to you. Since the charges levelled against you are serious and grave, you are hereby suspended from duty pending enquiry and final disposal of the case. You should present yourself at the factory gate everyday at 9-00 a.m. and see the Security Officer for the purpose of service of documents.

He had submitted his explanation denying the above allegations made against him which was considered by the management but not found to be satisfactory and an enquiry into his conduct was ordered. Shri A.P. Sinha, the then Personnel Officer of the present management now working as Deputy General Manager for M/s Amar Nath Bhaskar and Sons, Faridabad M.W. 2 was appointed as the Enquiry Officer. He held the enquiry ex-parte against Shri Prem Chand since he had failed to appear before him in spite of notice. On the representation made by Shri Prem Chand the ex-parte enquiry was, however, set-aside by the management and Shri A.P. Sinha was directed to hold the enquiry again after hearing the workman. Shri Sinha accordingly held the enquiry in the presence of Shri Prem Chand who was assisted by co-worker Shri Krishan Gopal. According to the statement on oath of Shri A.P. Sinha, this workman had fully cross-examined the witnesses of the management and besides making his own statement had produced two witnesses in his defence. He has further stated that the enquiry proceedings had been signed by Shri Prem Chand and his representative Shri Krishan Gopal. The Enquiry Officer had found the workman guilty of the said charges of insubordination, disorderly behaviour and disobedience of the order of the senior Officer,—vide his report dated 29th March, 1970 Ex. M. W. 2/9. Shri Sinha, Enquiry Officer, was recalled as his own witness by the workman in the present proceedings but he was not able to elicit from the statement of the witness any thing to support his contention that the enquiry was not just and proper. Shri Sinha reiterated his earlier deposition made by him as M.W.2 that this workman had fully participated in the enquiry and his report holding him guilty of the charges of misconduct levelled by the management was based upon his independent findings and that he had no prejudice or bias of any kind against the workman. A careful scrutiny of the inquiry proceedings read with the sworn testimony of the enquiry Officer both as a witness of the management and the workman Shri Prem Chand would not show that full opportunity had not been given to the workman to defend himself in the enquiry. There is further nothing on record to indicate that the Enquiry Officer had violated any principles of natural justice in holding the enquiry. In the circumstances I find nothing wrong with the enquiry nor can it by any stretch of imagination be held that the findings of the Enquiry Officer are in any way perverse. The incident on the basis of which the charge sheet was given to this workman and the enquiry held against him as more or less been admitted by the witnesses as examined on behalf of the workman in the enquiry. According to the case of the management the Deputy General Manager had asked Shri Prem Chand to paint a particular condenser which had to be sent out urgently but he had refused to comply with this direction and had misbehaved towards the said officer who had brought this fact to the notice of the other workmen present at that time. On the other hand the witnesses examined in defence stated that Shri Prem Chand had at once agreed to obey the above order of the Deputy General Manager with regard to the painting of the particular condenser and still the Deputy General Manager had shouted to attract the attention of the other workmen that Shri Prem Chand had refused to obey his order. This contention raised on behalf of the workman does not sound to reasons. If he had really agreed to comply with the order of the Deputy General Manager in the matter of painting the particular condenser which had urgently to be sent out and nothing untoward had happened. It is not believable that the Deputy General Manager would have raised a false hue and cry in shouting to the other workmen in the alleged manner in whose presence the entire incident had taken place. This plea of the workman appears to be only an after-thought and as such deserve no consideration.

It would thus appear that as found by the Enquiry Officer as a result of just and fair enquiry conducted by him in the presence of the workman and after giving the full opportunity of defending himself, this workman had clearly refused to obey the order of the senior officer and had further misbehaved towards him in disorderly and indecent manner in the discharge of his duties inside the establishment. His wilful insubordination to the lawful and the reasonable orders of the senior officers and disorderly and indecent behaviour towards him was apparently subversive of discipline and constituted misconduct as per the standing orders of the company which governed the contract of his service, and as such the management was fully competent to take disciplinary action against him. Such wilful insubordination to lawful and reasonable orders of the superior and disorderly and indecent behaviour by a workman in the discharge of his duties could certainly not be allowed by any employer and taking into consideration the very serious nature of the misconduct committed by the present workman it can not be held that the punishment of dismissal from service awarded to him was in any manner excessive or not commensurate with his guilt to justify interference in the present proceedings.

That disposes of the entire case and for the reasons discussed above issue No. 2 is decided against the workman and it is held that they are not entitled to any relief way of reinstatement or back wages.

So far as the demand for the introduction of the gratuity scheme covered by item No. 1 of the order of reference is concerned it has already been observed while discussing issue No. 1 that the workmen of this establishment are entitled to the benefit of gratuity in accordance with the provisions of the Payment of Gratuity Act, 1972. It has been urged on behalf of the workmen that the benefit of gratuity should be given to them from the date of reference. The contention, I am afraid is without force. The Payment of Gratuity Act came into force with effect from 16th of September, 1972 and that being so the management can not reasonably be asked to implement this scheme with effect from an earlier date. The workmen are, therefore, held entitled to the benefit of gratuity in accordance with the provisions of the

Payment of Gratuity Act, 1972 with effect from the date of the enforcement of the Act i.e. 16th of September, 1972. The award is made in the light of my above observations and findings on the issues involved. In the circumstances, there shall be no order as to costs.

Dated the 31st May, 1973.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 566, dated the 3rd June, 1973

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 31st May, 1973.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 6157-4Lab-73/22829.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and management of M/s Synthetic Products Corporation, Faridabad :—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 240 of 1971

Between

SMT. LEKH WANTI KALRA AND THE MANAGEMENT OF M/S SYNTHETIC PRODUCTS CORPORATION,
FARIDABAD

Present—

Shri Roshan Lal for the worker.
Shri D.C. Bhardwaj for the management.

AWARD

The worker concerned Smt. Lekh Wanti Kalra had joined service with M/s Synthetic Products Corporation, Faridabad as a Trainee on Footwear Upper Stitching Machine w.e.f. 4th November, 1969. She was confirmed w.e.f. 1st October, 1970 and by giving her 5 increments of Rs. 3 each her wages were fixed at Rs. 112 P.M. in the grade of Rs. 90—3—120/4—168. The management terminated her services w.e.f. 1st June, 1971 allegedly on a charge of misconduct due to her quarrelsome nature and disorderly behaviour towards a superior officer. Feeling aggrieved she raised a demand for her reinstatement contending that the impugned action of the termination of her services was without justification but there was no satisfactory response from the management. The matter was then taken up before the Conciliation Officer,—vide demand notice dated the 7th June, 1971 which, however, also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred the above dispute for adjudication to this court,—vide order No. ID/FD/710-A-71/35391-95, dated the 27th November, 1971, with the following term of reference :

"Whether the termination of services of Smt. Lekh Wanti Kalra was justified and in order? If not, to what relief she is entitled?"

The parties were called upon to put in their respective written statements which was done by them. Smt. Lekh Wanti Kalra filed the statement of claim through her authorised representative Shri Roshan Lal Sharma, President General Engineering Mazdoor Union, Faridabad who had given the demand notice leading to the present reference. The management contested the claim of this worker mainly on the ground that her behaviour was subversive of discipline and her services had been terminated after holding a proper enquiry against her, copies of the relevant orders including the letter of appointment, confirmation and final termination of her services were filed along with the written statement and also the enquiry proceedings.

From the pleadings of the parties the issue that arose for determination in the case was precisely the same as per the term of reference. Smt. Lekh Wanti Kalra concerned worker has made her own statement and referred to the letter of confirmation copy Exhibit W. 1, two other letters of her promotion copies Exhibits W. 2 and W. 3, the warning given to her by the management copy Exhibit W. 4 and the letter of termination of her services copy Exhibit W. 5. According to her no proper enquiry had been conducted against her and she had not been given any opportunity to defend herself. She has further stated that during this period of forced unemployment she has not been gainfully employed anywhere. In cross-examination she has been confronted with some correspondence exchanged between her and the management and but for the fact that she has some wordy quarrel with co-workers outside the factory. She has categorically denied her alleged quarrelsome and disorderly behaviour towards the superior Shri P. B. L. Mittal and other workers in the factory.

On behalf of the management four witnesses have been examined namely Shri H. L. Malhotra, Works Manager, M.W. 1, Shri P.B.L. Mittal, Designer, M.W. 2, Sarvshri Hari Chand and Nek Ram co-workers M.W. 3 and M. W. 4 respectively. M.W. 1 and 2 have deposed that Smt. Lekh Wanti Kalra had misbehaved towards Shri P.B.L. Mittal on 12th December, 1970 by brandishing her sandle towards him in the presence of other workers. They have further stated that complaints against Smt. Lekh Wanti Kalra had been received from the coworkers Gita Rani, Parbati Devi, Nek Ram and Hari Chand that her behaviour towards them had been threatening. According to the M.Ws. Smt. Lekh Wanti Kalra was given a regular charge-sheet and an enquiry against her was held by Shri P.B. Bhattacharya. The witnesses have referred to various documents including the complaints in writing made by Shri Mittal and other co-workers, the charge-sheet given to her by the management, the report of Shri P. B. Bhattacharya containing his findings of guilty against her and the final order of termination of her services.

M. Ws. 3 and 4 have deposed that the behaviour of Smt. Lekh Wanti Kalra towards the superior Shri Mittal and other co-workers was not good and when Shri Mittal had objected to her being irregular in attendance she had misbehaved towards him. Shri Hari Chand M.W. 3 has proved complaints Exhibits M. 17 and M. 18 made by him against Smt. Lekh Wanti Kalra.

The case has been fully argued on both sides and I have given a very considered thought to the facts on record. As would be clear from the facts stated above the worker concerned Smt. Lekh Wanti Kalra had been confirmed within a year or so of her joining service by granting her 5 advance increments and in addition to her normal duties she had been asked to supervise the work of the other girl trainees. She had, however, been charged of quarrelsome and disorderly behaviour towards her superiors and co-workers in the establishment for which she was given a warning in writing which had allegedly proved ineffective. On May 26, 1971 she was given the charge-sheet which reads as under :—

"It has been reported against you as under :—

(a) Disobedience of orders given by the Section Incharge.

- (b) Shouting and showing sandle to the Section Incharge with the factory premises and within factory hours.
- (c) Quarrelling and threatening your fellow workers.
- (d) Misbehaviour with your fellow workers.
- (e) You are warned twice previously on these counts but you have not improved.

The above mentioned charges are of very serious nature and the management called upon you explanation for the same. Your explanation should reach within a reasonable period of time failing which a court of enquiry shall be held to enquire into the charges levelled against you. The enquiry shall be held independently by the Administrative Officer on 29th June, 1971."

According to the management an enquiry into the said charges levelled against Smt. Lekh Wanti Kalra was held after considering her explanation and Shri S.P. Bhattacharya, Administrative Officer had conducted the enquiry in which the said charges had been duly established. The Enquiry Officer has not been examined as a witness in the present proceedings and a perusal of the enquiry record prepared by him leaves no doubt whatever in concluding that the enquiry had not been conducted by him in a proper manner. The record does not show that the witnesses produced by the management were cross-examined by the worker concerned or her authorised representative. It appears that the Enquiry Officer had only verbally examined the witnesses of the management without recording their statements. His report does not further reveal that he had recorded even the statement of the worker concerned what to speak of giving her an opportunity to produce evidence in her defence. In the circumstances, the so called enquiry said to have been held against the present worker was no enquiry in the eye of law. A perusal of the enquiry report and other documents brought on record would show that Smt. Lekh Wanti Kalra had asked for Hindi version of the record prepared against her which does not seem to have been supplied by the Enquiry Officer or the management. The witnesses relating to the incidents in respect of which the charge-sheet was given should have been examined in her presence and she should have been given an opportunity to cross-examine them. She should further have been given an opportunity to make her own statement and examine the witnesses in her defence, if any. It was not fair for the Enquiry Officer simply to make verbal enquiries from the persons concerned and based the findings of guilty against the present worker on his personal enquiries from the witnesses concerned. Taking into consideration all these facts combined together, the enquiry has to be quashed as being not proper and in accordance with the principles of natural justice and I order accordingly.

The so called domestic enquiry said to have been conducted against the present worker being thus vitiated, the question which next arises for consideration is whether the charges of mis-conduct levelled against her by the management have otherwise been proved and, therefore, the impugned order of the termination of her services is justified. The main charge against her was that she had misbehaved towards the Section Incharge Shri P.B.L. Mittal in a threatening manner in the factory premises during working hours by showing to him her sandle. In the charge-sheet the date and time of this incident has not been mentioned and this charge as such has not been established by corroborative evidence by examining the witnesses in whose presence she had allegedly mis-behaved towards Shri Mittal in the above manner. Sarvshri Hari Chand and Nek Ram M.Ws. 3 and 4 have only stated in general terms that her behaviour towards

Shri Mittal and co-workers was not good but they have stated nothing as regard to this particular incident. In the absence of clear and convincing evidence on the point this specific charge can not be held to be established against the worker and that being so the order of the termination of her services which is based on this charge can not be upheld as being justified and in order.

The question that next arises for consideration in the case as to what relief is the present worker entitled to on the above findings that the enquiry held by the management is vitiated and the main charge of mis-conduct levelled against her in misbehaving towards the senior officer in a disorderly manner by brandishing her sandle is not established. In the ordinary course of events a worker would be entitled to reinstatement on such findings but taking into consideration the peculiar facts of this case, I think it would not be in the fitness of things to award this relief to the present worker. From the perusal of the various letters exchanged between her and the management and the complaints made against her by the co-workers including Gita Devi Parbati, Hari Chand and Nek Ram it is proved that her behaviour towards the co-workers both inside as well as outside the factory was anything but good and she would quarrel with them on every available occasion. As a result of this quarrelsome behaviour some of the lady workers had even been compelled to leave service. She had no doubt been authorised to supervise the worker of the girl trainees as would be clear from the letter of her confirmation dated October 17, 1970 issued by the management on the expiry of the period of probation. This however, did not mean that she was at liberty to misbehave towards the trainees and other co-workers in a threatening manner. This attitude of her was clearly subversive of discipline and not congenial to the atmosphere of proper smooth and peaceful working in the establishment. As a result of her quarrelsome nature she had apparently lost the confidence of the management especially when the warning was given to her in this behalf had had no salutary effect. So, in the circumstances of the case, discussed above, I think the present worker should not be entitled to the relief of reinstatement or re-employment in this establishment and it would fairly meet the ends of justice if she is awarded full back wages for the intervening period by way of compensation for the illegal termination of her services without holding proper enquiry into the main charge of misconduct levelled against her by the management. The award is made accordingly but without any order as to costs.

Dated the 5th June, 1973.

O.P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1512, dated the 11th June, 1973.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 6174-Lab-73/22836.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Deputy Labour Commissioner, Haryana, and Arbitrator in respect of the dispute between the workmen and management of Messrs Gobind Steel Industries, Bahadurgarh.

BEFORE SHRI M. K. JAIN, DEPUTY LABOUR COMMISSIONER, HARYANA AND ARBITRATOR
In the matter of Industrial Disputes between the workmen and management of Messrs Gobind Steel Industries, Bahadurgarh.

Present :

1. Shri Chander Singh, General Secretary and Shri Rajinder Singh, President, Bahadurgarh Potteries and General Labour Union, Bahadurgarh, on behalf of the workmen.
2. Shri Gobind Ram, Partner, Messrs Gobind Steel Industries, Bahadurgarh alongwith Shri R.C. Sharma, General Secretary, Commerce and Industries Organization (Registered), Faridabad, on behalf of the management.

ORDER

The industrial disputes arising out of demand notice, dated 21st June, 1972 regarding reinstatement of Shri Siri Kishan, demand notice dated 21st June, 1972, regarding reinstatement of Shri Azad Singh and demand notice, dated 12th June, 1972 regarding general demands of the workmen were referred to me for arbitration,—vide Haryana Government notification No. ID/RK/209-A-72/35125, dated 20th September, 1972. The arbitration proceedings were held on 8th December, 1972 and the representatives of the management raised certain preliminary objections.

2. To decide these objections, the next meeting was fixed for 5th June, 1973, when the representatives of both the parties appeared before me and stated that they want to settle the disputes through mutual negotiations in the presence of the undersigned rather than to be decided through arbitration proceedings. Consequently, the negotiations were held at length on all the matters in dispute and ultimately a settlement was brought about, a copy of which is enclosed as Annexure 'A'. I, therefore, give my award in terms of this settlement.

Dated 12th June, 1973.

M. K. JAIN,

Deputy Labour Commissioner, Haryana
and Arbitrator.

MEMORANDUM OF SETTLEMENT UNDER SECTION 12(3) OF THE INDUSTRIAL DISPUTES ACT, 1947

Name of the parties	.. Messrs Gobind Steel Industries, Bahadurgarh and their workmen
Representing employer	.. Shri Gobind Ram, Partner
Representing workmen	.. 1. Shri Chander Singh, General Secretary 2. Shri Rajinder Singh, President, Bahadurgarh Potteries and General Labour Union, Bahadurgarh

SHORT RECITAL OF CASE

Demand notices, dated 12th June, 1972, 21st June, 1972 and 21st June, 1972 served by Bahadurgarh Potteries and General Labour Union, Bahadurgarh, Shri Azad Singh and Shri Siri Kishan upon Messrs Gobind Steel Industries, Bahadurgarh.

TERMS OF SETTLEMENT

Demand Notice, dated 12th June, 1972

The workmen have since been paid bonus for the years, 1969-70 and 1970-71 and there is no further dispute in this regard. They have also been paid Bonus for the year 1971-72 at the rate of 8.33 per cent which has been accepted as well by the workmen and there is no further dispute in this regard. The workers will be paid bonus for the years 1973-74 and 1974-75 at the rate of 9 per cent for each of the years according to the provisions of Payment of Bonus Act, 1965.

2. The dearness allowance would be paid in accordance with the linkage of Consumer Price Index Numbers made with the minimum wages fixed for Engineering Industry under the Minimum Wages Act, 1948.

3. The workers would be allowed annual increments at the following rates :—

- (a) Workers drawing upto Rs 150 per mensem = Rs 5 per annum.
- (b) Workers drawing more than Rs 150 and upto Rs 250 = Rs 7 per annum.
- (c) Workers drawing more than Rs 250 per mensem = Rs 10 per annum.

Demand Notice, dated 21st June, 1972

The workers Shri Azad Singh and Shri Siri Kishan give up their claim for reinstatement and inconsideration thereof, the management agree to pay them Rs 150 and Rs 300, respectively by the end of June, 1973, in full and final settlement.

(Sd.)

(Sd.)

(Signature of the Representative of the Employer).

(Signature of the representative of the workmen).

Witness—

1. (Sd.)

2. (Sd.)

Signed in my presence.

Dated 5th June, 1973.

(Sd.)

Deputy Labour Commissioner, Haryana.
Camp Bahadurgarh.